

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

UNITED STATES OF AMERICA,

Plaintiff,

v.

WILLIAM NEWEL BROCKBRADER,

Defendant.

Case No. 1:12-cr-00156-BLW

MEMORANDUM DECISION AND  
ORDER

**INTRODUCTION**

Before the Court is a handful of filings made by pro se Defendant William Newel Brockbrader, which include: “Resignation of Trustee Status; Sworn Declaration of Grantor and Sole Beneficiary Status; Revocation of Power of Attorney; and Appointment of Trustee(s)” (Dkt. 165); “Mandatory Judicial Notice of Legislative Facts Pursuant to 48 CFR 53.228 For Deposit” (Dkt. 166); a “Counterclaim for Reimbursement” (Dkt 167); a “Writ of Praecipe” (Dkt. 168); and a “Notice of Default and Opportunity to Cure” (Dkt. 173). The government has moved to strike the filings because they are frivolous and

unsupported. The Court agrees that the filings have no basis in law or fact and none are appropriate filings in a criminal case. The Court will therefore grant the government's motion to strike the filings. The Court cautions Defendant Brockbrader that he could be subject to sanctions if he continues to file frivolous requests, which are not proper in this criminal proceeding.

### **ANALYSIS**

A jury found Brockbrader guilty following a jury trial in December 2012 for Failure to Register as a Sex Offender, violating 18 U.S.C. § 2250(a)(A) and (B) (SORNA). The Federal Defender's Office initially represented Brockbrader until a conflict arose. This conflict led the Court to appoint Robyn Fyffe as new counsel. She represented Brockbrader at trial, but withdrew after trial at Brockbrader's request. The Court then granted Brockbrader's request to represent himself. Ms. Fyffe agreed to serve as standby counsel in a very limited capacity – essentially to aid Brockbrader in gaining additional access to the jail law library. Now Brockbrader has filed a series of "requests" that have no basis in law or fact.

Brockbrader's first filing is captioned "Resignation of Trustee Status; Sworn Declaration of Grantor and Sole Beneficiary Status; Revocation of Power of Attorney; and Appointment of Trustee(s)" (Dkt. 164). In this filing, Brockbrader purports to appoint United States Attorney for the District of Idaho Wendy Olson as "Trustee," and then directs the Trustee to "execute the following Conveyance: close, settle and discharge the above-captioned penal case and eliminate the record." Then he proceeds to "direct

that you, the Trustee, execute the following Conveyance; under the principles of Contribution and Indemnification, compensate me, from the Trust, in the amount of \$250,000 in Redemption, as Restitution, Reimbursement, and Refund, and for Damages suffered ... “ Dkt. 165, at 2, 3.

On March 7, 2013, Brockbrader’s wife, Eva Moore, then sent an email to the Court and to Wendy Olsen, as well as others, declaring herself "Attorney-in-fact by Power Of Attorney for william newel brockbrader." Ms. Moore detailed what she believed Brockbrader had filed, and included the letter with the following sentence: "As per the attached legal documents, the time frame for closure and settlement was three days from March 1, 2013 with a 24 hour grace period." Apparently, Ms. Olson did not heed Ms. Moore’s warning, and Brockbrader filed a Notice of Default and Opportunity to Cure on March 14, 2013. This filing stated that the “appointed trustee” was in default and it gave her the opportunity to cure the “default.”

Brockbrader has absolutely no legal basis to appoint the United States Attorney for the District of Idaho as his trustee, and no legal basis to seek default against her. Filling a document with archaic legal terms cannot does not provide the necessary basis. Thus, both Brockbrader’s purported designation of Wendy Olson as trustee and the notice of default will be stricken.

Brockbrader also filed a "Mandatory Judicial Notice of Legislative Facts Pursuant to 48 CFR 53.228 For Deposit," which contains a list of citations from the Code of Federal Regulations, which all apply in civil actions. This case is not a civil property

dispute, and these regulations have no application in this criminal proceeding, and this filing will be stricken.

Likewise, Brockbrader's other filings, which are equally as frivolous and nonsensical, will be stricken. Brockbrader filed a "Counterclaim for Reimbursement," which cites to civil rules of procedure concerning counterclaims, cross claims, and amendments during and after trial, and regulations relating to property and insurance. Again, these rules have no application in this case. Finally, Brockbrader filed a "Writ of Praecipe," which simply contains excerpts from a previous Court decision in this case. Neither of these filings have any merit, and will be stricken.

The Court warns Brockbrader that he may be subject to sanctions at the government's request if he continues to make frivolous filings.

### **ORDER**

IT IS ORDERED that the government's Motions to Strike (Dkt. 169&177) are GRANTED. The following documents will be STRICKEN: "Resignation of Trustee Status; Sworn Declaration of Grantor and Sole Beneficiary Status; Revocation of Power of Attorney; and Appointment of Trustee(s)" (Dkt. 165); "Mandatory Judicial Notice of Legislative Facts Pursuant to 48 CFR 53.228 For Deposit" (Dkt. 166); a "Counterclaim for Reimbursement" (Dkt 167); a "Writ of Praecipe" (Dkt. 168); and a "Notice of Default and Opportunity to Cure" (Dkt. 173).



DATED: March 26, 2013

*B. Lynn Winmill*

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Chief Judge  
United States District Court